

## **Tennessee Board of Chiropractic Minutes**

**Date:** November 9, 2004

**Time:** 9:00 A. M CST

**Location:** Tennessee Room  
Ground Floor, Cordell Hull Building  
Nashville, TN 37247

### **Board Members**

**Present:** Barry Kelton, D.C., Chair  
Michael Massey, D.C.  
Andrea Selby, D.C.  
Debe Williams, D.C.  
Sheila Fitzgerald

### **Board Members**

**Absent:** Robert Pannell, D.C.  
Linda Kindrick

### **Staff**

**Present:** Sherry Owens, Board Administrator  
Robbie Bell, Director  
Bob Kraemer, Advisory Attorney  
Rick Agee, Unit Manager  
Jerry Kosten, Rules Coordinator  
Barbara Maxwell, Administrative Director

Dr. Kelton, chair, called the meeting to order at 9 a.m. There were a sufficient number of board members present to constitute a quorum.

### **Review Minutes**

Upon review, Dr. Williams made a motion, seconded by Dr. Selby, to approve the August minutes as written. The motion carried.

### **Conflict of Interest**

Mr. Kraemer reviewed the conflict of interest policy and requested board members to disclose all conflicts of interest as they occur.

### **Report from Robert Kraemer, Advisory Attorney**

Mr. Kraemer said the scope of practice rule became effective August 17, 2004 and the disciplinary rule became effective October 16, 2004.

Mr. Kraemer said the rules pertaining to chiropractic acupuncture, continuing education, costs, volunteer licensure, advisory rulings and fees are ready for adoption at today's meeting.

### **Welcome New Board Member**

Dr. Kelton introduced Ms. Sheila Fitzgerald, and welcomed her to the board as the new citizen member.

### **Investigative Report**

Ms. Phelps reviewed the investigative report stating eighteen (18) complaints against chiropractors have been received year to date. Ms. Phelps said twenty (20) complaints against chiropractors have been closed, fifteen (15) with no action, one (1) with a letter of warning and two (2) referred to the screening panel.

Ms. Phelps said one (1) complaint against a CTA has been received year to date and no complaints against CXT's have been received.

### **Disciplinary Report**

Ms. Phelps stated she is currently tracking one person to assure compliance with the order. Ms. Phelps said she enclosed a list of all disciplined practitioners for the board's review.

### **Financial Report**

Ms. Owens reviewed the financial report with the board and stated the board has a \$4,184 deficit which should be eliminated by 2005.

### **Board Administrative Report**

Ms. Owens said there are 876 licensed chiropractic examiners, 105 licensed chiropractic x-ray technicians and 348 licensed chiropractic therapy assistants.

Dr. Kelton asked Ms. Owens what the status of the continuing education audit. Ms. Owens said the letters will be going out next week.

Dr. Kelton asked if there is going to be a direct link to Health Related Boards. Ms. Owens said she spoke to Ms. Bell and there are no plans yet to get a direct link.

### **Contested Case Hearing Gerard Kosto**

Judge Madeline Williams presided over the contested case hearing for the respondent Gerald Kosko who is not present at the hearing. Judge Williams asked the board members to introduce themselves and state if they have prior knowledge of the case. All board members introduced themselves and stated they had no prior knowledge of the case.

Ms. Alycia Hodge, litigating attorney, represented the state in the matter. Ms. Hodge distributed the Notice of Hearing to the board members and stated Mr. Kosko is charged with practicing the profession of chiropractic without a license.

Upon conclusion Dr. Williams made a motion, seconded by Dr. Selby, to accept the findings of facts that Mr. Kosko practiced the profession of chiropractic without a license which is in violation of Tennessee law. The motion carried.

Dr. Williams made a motion, seconded by Dr. Massey, to assess Mr. Kosko a civil penalty, the cost of the hearing and all other related costs that resulted in the hearing. The motion carried.

Dr. Williams made a motion, seconded by Dr. Selby, to accept the conclusions of law that it is unlawful for any person to practice chiropractic in Tennessee without a license.

Dr. Williams made a motion, seconded by Dr. Selby that the policy statement for this decision is to protect the citizens in the state of Tennessee. A roll call vote was conducted and all board members voted in the affirmative.

### **Report from Jerry Kosten, Rules Coordinator**

Mr. Kosten stated a rulemaking hearing was conducted October 19, 2004 to amend Rule 0260-2-.19 advisory rule language, 0260-3-.06 fees for CXT's, 0260-3-.23 continuing education and 0260-5-.06 fees for CTA's, and introduce a new Rule 0260-2-.25, free health clinic and volunteer practice requirements.

Dr. Williams made a motion to adopt, seconded by Dr. Selby, to adopt the rule amendments and new rule as written. A roll call vote was conducted and all board members voted in the affirmative.

### **Discuss the results from the November 4, 2004 Task Force Meeting**

Dr. Selby said the Task Force recommendations were to increase the penalty for non-compliance of the continuing education requirements and conduct a 100% audit every year. Dr. Selby said three members of the Task Force volunteered to do the audits.

Dr. Williams stated that non-compliance with continuing education will continue until the board gets the licensees attention.

Mr. Agee stated the board could require licensees to send in proof of their continuing education annually by a certain date.

Mr. Kraemer said this could be done by a rule amendment but the amendment would not be in effect by the audit next year.

Dr. Selby suggested increasing the continuing education penalty to \$600 for chiropractors.

Dr. Williams made a motion, seconded by Dr. Selby, to amend the continuing education rule to fine chiropractors \$600 and CTA's and CXT's \$300.00 for failure to comply with the continuing education requirements. The motion carried.

Dr. Selby made a motion, seconded by Dr. Williams, to change the auditing schedule too annually for 100% of all three professions and authorize a rulemaking hearing to make the process a rule. The motion carried.

Dr. Selby made a motion, seconded by Dr. Williams, to a proposed rulemaking hearing to change the rules that all doctors are all responsible for submitting their continuing education on an annual basis. The motion carried.

Dr. Massey asked to include a proposal for a rule change to mandate that CXT's and CTA's obtain a one time two hour sexual boundaries and jurisprudence continuing education course in addition to the required 6 hours.

Dr. Selby made a motion, seconded by Dr. Williams, to require continuing education providers send continuing education information to the board. The motion carried.

Mr. Kosten asked if the deadline for sending in their continuing education every year is January 15<sup>th</sup> of the following year and have licensees submit the original documents. The board members concurred.

### **Discuss and consider adding the ACRRT exam for CXT licensure**

Ms. Owens said the CXT's currently take the AART examination which is geared toward the medical x-ray operator.

Ms. Stevens stated the Tennessee Chiropractic Association conducted verbal surveys on the AART exam and discovered the percentage of the exam is geared toward a hospital setting and not a chiropractic office setting. Ms. Stevens said the ACRTT exam is more specific toward chiropractors whereas the AART exam is more specific toward the core and spine. Ms. Stevens stated the TCA is asking the board to include the ACRRT exam with the AART exam. Ms. Stevens said the grading and certificates would come through the exam service and not the TCA, who would only proctor the exam.

Upon discussion, Dr. Williams made a motion, seconded by Dr. Selby, to replace the AART exam with the ACRRT exam with a passing score of seventy (70). The motion carried.

### **Discuss and consider the Tennessee Chiropractic Association lobbying for legislation changes for the continuing education hours for the Chiropractic Board**

Dr. Kelton asked Mr. Carter to discuss lobbying for legislation changes for the continuing education hours.

Mr. Carter said Ms. Bell suggested legislative language with a minimum of 12 hours of continuing education with the board voting each year to determine the hours. Mr. Carter asked Mr. Kraemer to draft the language for the legislative changes.

Mr. Kraemer agreed to draft the language for the legislative changes and to require continuing education provider's software be compatible with the State's software.

### **Review Applicant files for licensure and letters of concern and request**

Upon review, Dr. Williams made a motion, seconded by Dr. Selby, to approve the application of **Christian Troutman, D.C.** for licensure in Tennessee. The motion carried.

Upon review, Dr. Selby made a motion, seconded by Dr. Williams, to approve the application of **Phillip Coleman, D.C.** for licensure in Tennessee. The motion carried.

Upon review, Dr. Massey made a motion, seconded by Dr. Selby, to approve the application of **Kirk Jones, D.C.** for licensure in Tennessee with the following restrictions: Ninety (90) days of supervision by a board approved Tennessee chiropractor for at least twenty (20) hours a week and a letter from his supervisor upon completion of the ninety (90) days regarding Dr. Jones competency and recordkeeping. The motion carried.

Upon review, Dr. Williams made a motion, seconded by Dr. Massey, to reinstate the license of **Vasquey, D.C.**, whose Tennessee license was retired as part of an Agreed Order for telemarketing. The motion carried.

### **Discuss and consider approval of continuing education courses**

The board reviewed a letter from **John W. Ross, D.C.** requesting that his curriculum hours in law school be acceptable for his chiropractic continuing education. Dr. Williams made a motion, seconded by Dr. Massey, to deny Dr. Ross' request. The motion carried.

### **Change February 2004 Board Meeting Date**

The board voted in the affirmative to change the February board meeting to February 22, 2005.

**Ratify chiropractic physicians, certified x-ray technicians and chiropractic therapy assistants**

Dr. Selby made a motion, seconded by Dr. Williams, to ratify the following chiropractic physicians, certified x-ray technicians and chiropractic therapy assistants:

**Chiropractic physicians**

**Bryan R. Ardis  
Noel D. Baker  
Lisa Beighle  
Darren R. Bell  
Evan William Butcher  
Stephen D. Capps  
Kathryn E. Caserta  
Joseph Coffman  
Carrie Coleman  
Jason B. Cook  
Cory G. Crowley  
Stephanie D. Fortney  
Michael C. Glenn  
Lolethia Hamilton  
Jason Jackson  
Jennifer L. Kestner  
Russel Mauk  
Richard D. McIntyre  
Daniel B. McMahan  
Alan Mori  
Shannon Myers  
Kevin Richards  
Thomas L. Taliaferro**

**Chiropractic x-ray operators**

**Linda Baugher  
Kelly Dennis  
April Johnson**

**Chiropractic therapy assistants**

**Teresa M. Cox  
Andrea George  
Joy Graham  
David Wayne Gullick  
Nelda Legrand**

**Trina Phelps**  
**Lisa Reyes**

The motion carried.

### **Federation of Chiropractic Licensing Boards**

Dr. Kelton said the big issue with FCLB is the licensing of international chiropractic students. Dr. Kelton stated there are more schools outside the North American continent than inside and asked Sherry to sunshine international students for discussion at the next meeting.

Dr. Kelton also asked that the Pace Program, which reviews/approves continuing education courses for providers for a fee, be placed on the agenda for the next meeting.

### **Election of Board Officers**

Dr. Selby made a motion, seconded by Dr. Williams, to re-elect Dr. Kelton as president. The motion carried.

Dr. Williams made a motion, seconded by Dr. Kelton, to elect Dr. Selby as vice president. The motion carried.

Dr. Williams made a motion, seconded by Dr. Selby, to elect Dr. Massey as secretary. The motion carried.

With no other business to conduct, Dr. Selby made a motion, seconded by Dr. Williams, to adjourn at 12:52 p.m. The motion carried.

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